

## **APPELLATE DIVISIONS OF THE DISTRICT COURT AND BOSTON MUNICIPAL COURT DEPARTMENTS**

### **Revised Guidelines Regarding Extension of Due Dates and Other COVID-19 Internal Operating Procedures**

**REVISED MAY 1, 2020**

The Appellate Divisions provide this revised statement of guidelines and internal operating procedures to assist the public in understanding our administrative responses to the evolving COVID-19 pandemic and related orders of the Supreme Judicial Court. These guidelines are revised in response to the Supreme Judicial Court's April 27, 2020 order in No. OE-144 and replace the guidelines issued by the Appellate Divisions on April 17, 2020.

**I. Clerks' Offices.** As provided in the Supreme Judicial Court's April 27, 2020 Order in S.J.C. No. OE-144, clerks' offices in the Trial Court "shall continue to conduct court business," which "will be conducted virtually, except when the filing of pleadings and other documents in emergency matters cannot be accomplished virtually." Consistent with S.J.C. No. OE-144, as well as with Trial Court Emergency Administrative Order 20-8,<sup>1</sup> the clerk's office of the District Court Appellate Division and the clerk's office of the Boston Municipal Court Appellate Division remain open to accept filings in person only in emergency matters that cannot be filed remotely.

An emergency matter in the Appellate Division includes a petition to stay levy on an execution in summary process after denial by a trial court judge. The Appellate Division also has discretion to determine what qualifies as an emergency matter.

All personnel in the clerks' offices of the District Court Appellate Division and Boston Municipal Court Appellate Division are working remotely. Limited personnel are present at the Edward W. Brooke Courthouse for emergency matters only. To make an emergency filing, you are encouraged to submit the filing by e-mail, to the District Court Appellate Division at [appellatedc@jud.state.ma.us](mailto:appellatedc@jud.state.ma.us), and to the Boston Municipal Court Appellate Division at [appellatebmc@jud.state.ma.us](mailto:appellatebmc@jud.state.ma.us). The e-mail should include your contact information, any relevant docket number(s), a description of the emergency, and the relief sought in the Appellate Division. If you are unable to use e-mail, you may submit the emergency paper filing in a drop box at the front of the Brooke Courthouse, and you are advised to call the clerk's office with the above details, the District Court Appellate Division at 617-788-8810 and the Boston Municipal Court Appellate Division at 617-788-8600.

The clerks' offices of the Appellate Divisions are available remotely to answer procedural questions from attorneys, litigants, and the general public. For answers to general questions, please consult the Appellate Division's website at <https://www.mass.gov/district-court-appellate-division>.

**II. Deadlines.** The Supreme Judicial Court's April 27, 2020 Order provides for tolling of deadlines in statutes, court rules, standing orders, guidelines, or by court order. The Appellate Divisions of the District Court and Boston Municipal Court provide the following guidance on how this provision impacts deadlines before each Appellate Division.

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<sup>1</sup> All court orders may be found at <https://www.mass.gov/guides/court-system-response-to-covid-19>.

a. Prior deadlines.

The due dates for filings in the Appellate Division that by operation of statute, court rule, standing order, or court order would be due between March 16, 2020 and June 1, 2020 are hereby extended as provided in Section (II)(b). This applies to:

1. Appellate briefs in all case types, with the exception of appeals that have been expedited.
2. Status reports in all case types.
3. Responses or oppositions to motions. However, for any emergency matter, the Appellate Division may require a response to be filed by an earlier date.
4. Petitions seeking relief under G. L. c. 231, § 118A and any response to the petition.

b. New deadlines.

1. Deadlines not governed by statute. With the exception of a deadline specifically ordered by the Appellate Division in an appeal that has been expedited, the new due date for any deadline for filing in the Appellate Division not governed by statute (e.g., appellate brief, status report), which expired or will expire between March 16, 2020 and June 1, 2020, is extended to June 1, 2020. The tolling calculations in paragraph 12 of the Supreme Judicial Court's April 27, 2020 order do not apply. If a party needs an extension of time of a non-statutory deadline to a date beyond June 1, 2020, the party may file a motion in the Appellate Division.
2. Deadlines governed by statute. The new due date for any deadline for filing in the Appellate Division established by statute (e.g., G. L. c. 231, § 118A petition) is to be determined by application of the tolling calculations in paragraph 12 of the Supreme Judicial Court's April 27, 2020 order.

c. Voluntary non-emergency filings. The clerk's office of each Appellate Division will continue to accept any voluntary filings of motions, briefs, appendices, and other documents in non-emergency matters. You may either mail your filing to the applicable Appellate Division clerk's office, or e-mail it to the District Court Appellate Division at [appellatedc@jud.state.ma.us](mailto:appellatedc@jud.state.ma.us), or Boston Municipal Court Appellate Division at [appellatebmc@jud.state.ma.us](mailto:appellatebmc@jud.state.ma.us).

d. The Appellate Division will not dismiss an appeal under Rule 19(c) for an appellant's failure to file an appellant's brief timely until after June 1, 2020. If you need an extension to file your brief in the Appellate Division past June 1, 2020, you may submit that motion by mail or by e-mail to the District Court Appellate Division, at [appellatedc@jud.state.ma.us](mailto:appellatedc@jud.state.ma.us), or to the Boston Municipal Court Appellate Division, at [appellatebmc@jud.state.ma.us](mailto:appellatebmc@jud.state.ma.us).

**III. Mechanics for Starting and Perfecting Appeals.** Consistent with the orders of the Supreme Judicial Court and the Chief Justice of the Trial Court concerning reducing in-person traffic in the courthouse and possible transmission of COVID-19, the time for filing a notice of appeal to the Appellate Division, paying the \$180 filing fee or requesting waiver of the fee because of indigency, or perfecting an appeal under Rule 8A, Rule 8B, or Rule 8C, where the deadline falls between March 16, 2020 and June 1, 2020, is tolled. The new due date is to be determined by application of the tolling calculations in the Supreme Judicial Court's April 27, 2020 order.

These guidelines do not prevent you from voluntarily starting and perfecting an appeal before June 1, 2020. The notice of appeal to the Appellate Division and payment of the filing fee (or indigency waiver application) are filed in the trial court, not the Appellate Division. In-person filing is not permitted. You may continue to file these documents by mail, drop box, or if permitted by the trial court division that you are appealing from, by electronic means.

#### **IV. Emergency and Remote Filings.**

a. Emergency Filings. Persons with an emergency appellate matter must contact the Appellate Division Clerk's Office either by telephone (District Court at 617-788-8810; Boston Municipal Court at 617-788-8600), or by e-mail (District Court at [appellatedc@jud.state.ma.us](mailto:appellatedc@jud.state.ma.us); Boston Municipal Court [appellatebmc@jud.state.ma.us](mailto:appellatebmc@jud.state.ma.us)) with details about the emergency and provide their immediate contact information. Emergency matters may be filed by e-mail or by drop box at the Edward W. Brooke Courthouse.

b. Non-Emergency Filings. The clerk's office of each Appellate Division is open and accepting all filings in all case types by mail or e-mail.

#### **V. Hearings.**

Any hearings scheduled by the Appellate Division will be conducted virtually. The Appellate Divisions' preference is to make a record of any hearing in a medium that may be made available by electronic means. Parties may elect to submit their argument on their written submissions in lieu of oral argument.

Dated: May 1, 2020